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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,114	11/25/2003	Michael Z. Hoemann	SPV-048.02	4865

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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

EXAMINER

DESAI, RITA J

ART UNIT PAPER NUMBER

1625

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/722,114

Applicant(s)

HOEMANN, MICHAEL Z.

Examiner

Rita J. Desai

Art Unit

1625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/21/04</u> . | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION*Election/Restrictions*

Applicants have elected Group I of the restriction

- I. Claim 1 in part, drawn to a compound of formula A wherein R1 is an aryl, R2 is ROalkyl or (R)2N-alkyl, R (S)-alkyl, (R)2Ncycloalkyl, (R)2N cycloalkyl or RS-cycloalkyl, R3 and R4 are H, alkyl or F or -OR, (R is a non hetero ring R5 is a phenyl or a thiophene classified in class 546 and various subclasses.

Applicant's traversal and request to rejoin group V has not been found to be persuasive.

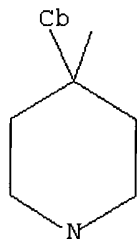
The core is not novel and there are numerous iterations.

L1 STRUCTURE UPLOADED

=> d 11

L1 HAS NO ANSWERS

L1 STR



1.0% PROCESSED 1000 ITERATIONS
 INCOMPLETE SEARCH (SYSTEM LIMIT EXCEEDED)
 SEARCH TIME: 00.00.01

7 ANSWERS

FULL FILE PROJECTIONS: ONLINE **INCOMPLETE**
 BATCH **INCOMPLETE**
 PROJECTED ITERATIONS: EXCEEDS 1000000
 PROJECTED ANSWERS: EXCEEDS 12447

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Thus the search is burdensome, and the restriction is maintained.

The action on Group I is as follows :-

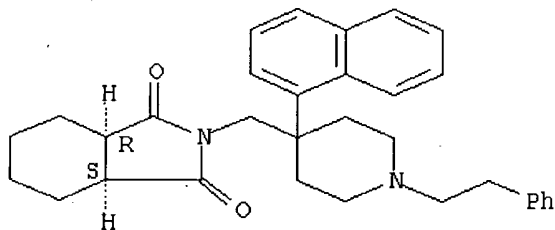
Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by WO 9106297

Ciganek et al.

The reference discloses the compound



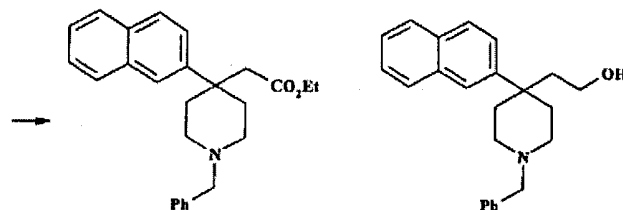
These read on the compounds of the invention when

R is an aryl, R2 is an alkyl, R5 is a phenyl and R3 and R4 are H, n is 1.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by WO9857972

Monaghan et al .

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The reference discloses

The second compounds read on the instant when R is H, n is 0, R₃ and R₄ are hydrogen, R₁ is an aryl.

Conclusion

Claim 1 is rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rita J. Desai whose telephone number is 571-272-0684. The examiner can normally be reached on Monday - Friday, 9:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached on 571-272-0562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rita J. Desai

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Primary Examiner
Art Unit 1625

R.D.

November 8, 2004

Rhesar
11/8/04